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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/675,466

09/30/2003

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15038US02

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23446 7590 11/06/2008  
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EXAMINER

STANLEY, MARK P

ART UNIT

PAPER NUMBER

2427

MAIL DATE

DELIVERY MODE

11/06/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/675,466	<b>Applicant(s)</b> KARAOGUZ ET AL.	
	<b>Examiner</b> MARK P. STANLEY	<b>Art Unit</b> 2427	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 and 25-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 and 25-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Miscellaneous***

1. Please note that the examiner of record for this application has changed.
2. This action is in response to the amendment filed on 10/16/2008. Claims 1-23 and 25-35 are pending in the application. Claims 1, 9, 17, and 27 have been amended.

### ***Response to Arguments***

3. Applicant's arguments filed 10/16/2008 have been fully considered but they are not persuasive.

Applicant argues that McGowan does not teach or suggest "scheduling the identified additional media according to the at least one statistic, for consumption by the user via the communication network". However, the Examiner respectfully disagrees, McGowan discloses receiving user requests which are subsequently stored in a database, thereafter a VCS operator based on information according to the user requests stored in said database creates a bundled collection of content including described additional content which is released according to a determined schedule by given VCS operator ([0032]-[0035]). Therefore, McGowan does teach the scheduling of additional content based on received user requests.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-23 and 25-35 are rejected under 35 U.S.C. 102(e) as being anticipated by McGowan et al. (US 2003/0018745 hereinafter McGowan).

**Regarding claim 1**, McGowan discloses “a method supporting communication of activity information to enable media programming, the method comprising:

receiving, via a communication network, at least one notification of a user request for consumption of media, each of the at least one notification comprising information related to the request;” ([0008]-[0009], [0026], Fig. 1, item 50 a home user interacts with broadcast content via various requests such as for VOD content, where information pertaining to the requests are transmitted to item 55 a usage and experience database)

“calculating at least one statistic, using the information related to the request;” ([0026], Figs. 1, item 55 statistical information based on a user’s requests)

“identifying additional media for consumption by the user using the at least one statistic;” ([0033], Fig. 3 item 155 and 155a identifying additional media based on statistical information of user requests from item 55)

“scheduling the identified media according to the at least one statistic, for consumption by the user via the communication network; and” ([0033]-[0034], [0011],

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Fig. 3 item 160 a schedule of additional media is created to be transmitted to the user as a virtual channel available for the user's consumption)

“updating a user interface with the scheduled identified media” ([0048], Fig. 7, a virtual channel user interface is provided based upon determination of the schedule).

**Regarding claim 2**, McGowan discloses “the method of claim 1 wherein the information comprises one or more of an Internet protocol (IP) address, a media access control (MAC) address, an electronic serial number (ESN), a title, a subject, a time period, a genre, an artist, a media channel type, a mode, a language, and/or a user identifier” ([0026], Fig. 3 item 55).

**Regarding claim 3**, McGowan discloses “the method of claim 1 wherein the communication network comprises one or more of a cable infrastructure, a satellite network infrastructure, a digital subscriber line (DSL) infrastructure, an Internet infrastructure, an intranet infrastructure, a wired infrastructure, and/or a wireless infrastructure” ([0003], Figs. 5-6).

**Regarding claim 4**, McGowan discloses “the method of claim 1 wherein the communication network is the Internet” ([0008], [0048]).

**Regarding claim 5**, McGowan discloses “the method of claim 1 wherein the media comprises one or more of audio, a still image, video, real time video, and/or data” ([0028], [0044]).

**Regarding claim 6**, McGowan discloses “the method of claim 1 wherein consumption comprises one or more of playing audio, displaying a still image, displaying video, and/or displaying data” ([0044]).

**Regarding claim 7**, McGowan discloses “the method of claim 1 wherein one or more of the calculating, identifying, scheduling, and/or updating is performed on a periodic basis” ([0022], [0026], [0047]).

**Regarding claim 8**, McGowan discloses “the method of claim 1 wherein the at least one statistic is a ranking of the relative frequency of consumption of media” (Fig. 3 item 55).

**Regarding claim 9**, McGowan discloses “a method supporting communication of activity information to enable media programming, the method comprising:

receiving, via a communication network, at least one notification of a user request for consumption of media, each of the at least one notification comprising

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information related to the request;" ([0008]-[0009], [0026], Fig. 1, item 50 a home user interacts with broadcast content via various requests such as for VOD content, where information pertaining to the requests are transmitted to item 55 a usage and experience database)

"calculating at least one statistic, using the information related to the request;" ([0026], Figs. 1, item 55 statistical information based on a user's requests)

"identifying additional media for consumption by the user using the at least one statistic;" ([0033], Fig. 3 item 155 and 155a identifying additional media based on statistical information of user requests from item 55)

scheduling the identified media according to the at least one statistic for consumption by the user; and" ([0033]-[0034], [0011], Fig. 3 item 160 a schedule of additional media is created to be transmitted to the user as a virtual channel available for the user's consumption)

"communicating one or both of the identified media and/or the at least one statistic to a provider of the media, via the communication network" ([0027], [0047]).

**Regarding claim 10**, McGowan discloses "the method of claim 9 wherein the information comprises one or more of an Internet protocol (IP) address, a media access control (MAC) address, an electronic serial number (ESN), a title, a subject, a time period, a genre, an artist, a media channel type, a mode, a language, and/or a user identifier" ([0026], Fig. 3 item 55).

**Regarding claim 11**, McGowan discloses “the method of claim 9 wherein the communication network comprises one or more of a cable infrastructure, a satellite network infrastructure, a digital subscriber line (DSL) infrastructure, an Internet infrastructure, an intranet infrastructure, a wired infrastructure, and/or a wireless infrastructure” ([0003], Figs. 5-6).

**Regarding claim 12**, McGowan discloses “the method of claim 9 wherein the communication network is the Internet” ([0008], [0048]).

**Regarding claim 13**, McGowan discloses “the method of claim 9 wherein the media comprises one or more of audio, a still image, video, real time video, and/or data” ([0028], [0044]).

**Regarding claim 14**, McGowan discloses “the method of claim 9 wherein consumption comprises one or more of playing audio, displaying a still image, displaying video, and/or displaying data” ([0044]).



**Regarding claim 15**, McGowan discloses “the method of claim 9 wherein one or more of the calculating, identifying, scheduling, and/or updating is performed on a periodic basis” ([0022], [0026], [0047]).

**Regarding claim 16**, McGowan discloses “the method of claim 9 wherein the at least one statistic is a ranking of the relative frequency of consumption of media” (Fig. 3 item 55).

**Regarding claim 17**, McGowan discloses “a system supporting communication of activity information to enable media programming, the system comprising:

a television display;  
a storage for storing media, the storage having an associated network address;  
a user interface accessible via the television display, the user interface supporting the selection of media for consumption;”

set top box circuitry communicatively coupling the storage to a communication network to support consumption of the selected media; and” ([0044]-[0045], Fig. 5)

“server software that receives, via the communication network, a notification comprising at least one of the associated network address and information related to the media selected for consumption by a user,” (Fig. 1 item 55 via back channel) “and responds by calculating at least one statistic,” (Fig. 3 item 55) “identifying additional

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media for consumption by the user using the at least one statistic,” (Fig. 3 items 155-155a) “and scheduling availability of the identified media according to the at least one statistic” ([0033]-[0034], Fig. 3 items 160-160a).

**Regarding claim 18**, McGowan discloses “the system of claim 17 wherein the media comprises one or more of audio, a still image, video, real time video, and/or data” ([0028], [0044]).

**Regarding claim 19**, McGowan discloses “the system of claim 17 wherein consumption comprises one or more of playing audio, displaying a still image, displaying video, and/or displaying data” ([0044]).

**Regarding claim 20**, McGowan discloses “the system of claim 17 wherein the information comprises one or more of an Internet protocol (IP) address, a media access control (MAC) address, an electronic serial number (ESN), a title, a subject, a time period, a genre, an artist, a media channel type, a mode, a language, and/or a user identifier” ([0026], Fig. 3 item 55).

**Regarding claim 21**, McGowan discloses “the system of claim 17 wherein the communication network comprises one or more of a cable infrastructure, a satellite network infrastructure, a digital subscriber line (DSL) infrastructure, an Internet

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infrastructure, an intranet infrastructure, a wired infrastructure, and/or a wireless infrastructure” ([0003], Figs. 5-6).

**Regarding claim 22**, McGowan discloses “the system of claim 17 wherein the information comprises one or more of a title, a subject, a time period, a genre, an artist, a media channel type, a mode, a language, and/or a user identifier” ([0026], Fig. 3 item 55).

**Regarding claim 23**, McGowan discloses “the method of claim 17 wherein the at least one statistic is a ranking of the relative frequency of consumption of media” (Fig. 3 item 55).

**Regarding claim 25**, McGowan discloses “the method of claim 17 wherein one or more of the calculating, identifying, scheduling, and/or updating is performed on a periodic basis” ([0022], [0026], [0047]).

**Regarding claim 26**, McGowan discloses “the system of claim 17 wherein the server software shares, with a third party, the at least one statistic” ([0027]).

**Regarding claim 27**, McGowan discloses “a system supporting communication of activity information to enable media programming, the system comprising:

set top box circuitry communicatively coupled to a communication network to support consumption of media; and” ([0044]-[0045], Fig. 5)

“software that receives, via the communication network, a notification of a user request for consumption of media,” (Fig. 1 item 55 via back channel) “wherein the notification comprises information related to the request, wherein the software also calculates a statistic using the information related to the request,” (Fig. 3 item 55) “identifies additional media for consumption by the user using the statistic,” (Fig. 3 items 155-155a) “and schedules availability of the identified media according to the statistic” ([0033]-[0034], Fig. 3 items 160-160a).

**Regarding claim 28**, McGowan discloses “the system of claim 27 wherein the media comprises one or more of audio, a still image, video, real time video, and/or data” ([0028], [0044]).

**Regarding claim 29**, McGowan discloses “the system of claim 27 wherein consumption comprises one or more of playing audio, displaying a still image, displaying video, and/or displaying data” ([0044]).

**Regarding claim 30**, McGowan discloses “the system of claim 27 wherein the communication network comprises one or more of a cable infrastructure, a satellite network infrastructure, a digital subscriber line (DSL) infrastructure, an Internet

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infrastructure, an intranet infrastructure, a wired infrastructure, and/or a wireless infrastructure” ([0003], Figs. 5-6).

**Regarding claim 31**, McGowan discloses “the system of claim 27 wherein the information comprises one or more of a title, a subject, a time period, a genre, an artist, a media channel type, a mode, a language, and/or a user identifier” ([0026], Fig. 3 item 55).

**Regarding claim 32**, McGowan discloses “the method of claim 27 wherein the at least one statistic is a ranking of the relative frequency of consumption of media” (Fig. 3 item 55).

**Regarding claim 33**, McGowan discloses “the method of claim 27 wherein one or more of the calculating, identifying, scheduling, and/or updating is performed on a periodic basis” ([0022], [0026], [0047]).

**Regarding claim 34**, McGowan discloses “the system of claim 27 wherein the server software shares, with a third party, the at least one statistic” ([0027]).

**Regarding claim 35**, McGowan discloses “the system of claim 27 wherein the software comprises server software” ([0032]-[0034]).

### ***Conclusion***

6. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### ***Contacts***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARK P. STANLEY whose telephone number is (571)270-3757. The examiner can normally be reached on 8:00AM - 5:00PM Mon-Fri EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Beliveau can be reached on (571) 272-7343. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark P Stanley/  
Examiner, Art Unit 2427

/Scott Beliveau/  
Supervisory Patent Examiner, Art Unit 2427